

May 16th, 2022

Board of Zoning Appeal
441 4th ST, NW
Washington, D.C. 20001

RE:
Special Exception at
801 20th ST NE
Washington, DC 20002

BZA case 20680 is requesting a special exception. A special exception is based on the criteria set forth in DCMR Title 11 – Subtitle X Chapter 9. A special exception is a conditioned, permitted use in a particular zone district; that is, the use is permitted provided **certain specific criteria are met to ensure that certain negative impacts will not occur.** A Special Exception may be granted for a particular use of land or for a particular building.

As covered in the statement burden of proof this project adheres to DCMR Title 11 – Subtitle X 901 Special Exception Review Standards.

901.2(a) This project is in harmony with the general purpose and intent of the Zoning Regulations. Zone RF-4 is a new zone, and this project will be the first to be approved for a special exception within this zone. However, being first is not against the approval of a special exception. In addition, design solutions have been provided taking into consideration document ZC 19-30 for which this new zone is based on. The major concerns of ZC 19-30 are as follows:

1. Lack of Front Setback

- a. This project is meeting the front setback requirements within the RF-4 zone by maintaining the existing front face along 20th ST NE which also aligns with the adjacent homes.

2. Desire to maintain consistent appearance in the front of properties on the same block

- a. The front façade along 20th ST NE has an entrance and porch into Unit A. This provides a consistent appearance along 20th ST NE and breaks up the massing to lessen the scale of the third-floor addition. Additionally, the entrance along H ST NE also serves the same purpose. This is not a requirement within the RF-4 zone. This is the project respecting the ANC 5D and ZC 19-30 by being a good neighbor. **See Exhibit 45 3D images.**

3. Maintain a floor-area-ratio (FAR) of 1.8

- a. This project FAR is 1.47. Additionally, the **proposed lot occupancy is only 36.6%, well below the 60% allowed.**

4. Encouraging Family-Sized, Affordable Housing

- a. This project provides three units. The lower two units will each provide four bedrooms and the upper unit provides two bedrooms. The District is severely lacking four-bedroom family-sized units which the two lower units will provide. Once again this is not a requirement of the RF-4 zone. This is the project meeting the expectations of the ANC 5D and ZC 19-30 by providing the desired type of housing.

5. Limit the impact of new construction

- a. This project is requesting a special exception to provide for much needed four-bedroom family-sized housing; however, the project is not building to its' by-right limitations. As shown on the East elevation, most of the building height is much lower than the 44'-0" allowed (40'-0" roof height plus 4'-0" parapet wall). There is no additional construction impact regarding this special exception.

6. There is no mention of additions not being allowed to exceed the 10'-0" rule within the ZC 19-30 or RF-4 zone – rather, the phrase is, "diminution of rear yards"

- a. This project is requesting an additional 6' 6-1/4" past the 10'-0" rule which provides a rear yard of 20' 3 3/4" and exceed the 20'-0" rear yard setback minimum. This special exception request will not negatively impact the size of a rear yard.

901.2(b)

This project does not adversely affect the use of the neighboring property as the Office of Planning confirms. An updated sun study, **Exhibit 44** has been provided which provides shadows for a matter of right building and the proposed building.

1. Shadows

- a. During the winter solstice there are minimal amounts of additional shadow created at 9:00 am (4'-11" additional shadow) and 12:00 pm (7'-3" additional shadow). At 3:00 pm the additional shadow covers a small corner of the property.
- b. During summer solstice the proposed building provides less shadows at 12:00 pm. The shadows at 9:00 am and 3:00 pm have no effect on the adjacent property. The proposed design allows for more light into the adjacent property during the summer months.

2. Light
 - a. As shown in the sun study the light into the adjacent residence is minimally affected compared with the by-right structure
3. Privacy
 - a. There are no windows facing the adjacent property to cause any issues with privacy.

901.4 The BZA requested at the May 4th BZA hearing that we provide the adjacent neighbor with additional contact information and construction management procedures that will be in place during construction. **Exhibit 46 Construction Maintenance Letter** was sent by certified mail to the adjacent neighbor as requested by Commissioner Moore of ANC 5D in lieu of dropping off the documents personally. We are open to a dialogue to further assist the homeowner of any concerns throughout this process.

The BZA also requested that we study the front façade along 20th ST NE to be compatible with the other homes along this block. As described above the design was reconfigured to provide unit A with their own entrance along 20th ST NE bringing the massing and appearance in line with other homes along this block.

Lastly, the project has **reduced the special exception request from 7.82' to 6.52' to reduce any impact on the adjacent neighbor**. The building is now 56'-3" long which is almost identical to the existing building across the street at 800 20th ST NE which is approximately 56'-0" in length and extends past their adjacent neighbor by approximately 14'-0". In addition, the building at 800 20th ST NE has a gable roof as does the proposed project creating a visual entrance to this block and further complimenting the character of the neighborhood. **Please see Exhibit A at the end of this document and Exhibit 45** showcasing some of the complimentary design elements. One such element, the dormer frames around the windows on the façade along 20th ST NE happened due to an observation by Commissioner Moore that there are some nice Dormers in the neighborhood. While this project does not have a typical dormer these dormer frames compliment the character of the neighborhood.

In response to ANC 5D letter

Item 1 We do not believe that we provided incomplete information when circulating the neighbor petition. We provided the proposed plans, 3D images, sun studies, and answered any questions requested. **This project has over 10 signatures** including four along H ST immediately across the street. They may not be the immediate adjacent

neighbor but neighbors none the less who do not feel that this will negatively impact their neighborhood.

The chimney is an ongoing issue which will have to be resolved with the building department. However, this only affects the third floor. Regardless of what happens with the chimney the goal is to provide family sized housing of four bedrooms for the two lower units.

Item 2

A special exception for one case does not guarantee another case of success. Each project is different. The zoning regulations have other requirements that protect development from being oversized. For example, lot occupancy is allowed up to 60% in the RF-4 zone and 70% with a special exception. It cannot be any more than that unless a variance is requested and none of these lots are special to be considered hardship.

As mentioned in the ANC 5D report there are some detached garages in this alley. However, this is not a concern for this project. Perhaps when a property requests a special exception and there is an adjacent detached garage this can be brought up as an issue.

This project cannot control which elderly neighbor sell to whom and if a developer has the patience and opportunity to buy multiple lots together and convert it to a bigger lot for a bigger building. I believe this is not reality as developers in RF zones buy and either flip or rent ASAP. There is no money to be made to buy, hold, and hope that a neighbor sells their property for a below market price.

Please see exhibit B and C at the end of this document which clearly show why **BZA case 20680 does not set a precedent** for this RF-4 zone. In addition, it will show why granting this special exception will not create a domino effect for the rest of the block.

In the end this is all speculation, and this project cannot control what may or may not happen in the future on other properties.

Item 3

We understand that this will be the first project within the RF-4 zone but **every zone has had a special exception approved at one time or another**. This project just happens to be the first. **Luckily, this project being the first has met the criteria set forth in DCMR Title 11 – Subtitle X 901 as agreed by the Office of Planning and respects the items of concerns as brought up in ZC 19-30.**

As of 2020 per the United States Census Bureau there are approximately 320,000 residential units with approximately 94,000 being single family homes within 34 residential zones. Special exceptions are needed as each property and its owner has individual and unique needs that may not conform to the exact requirements of its zone. If these needs adhere to Title 11 – Subtitle X 901 then a special exception may be granted. BZA case 20680 has shown that it is a great example of respecting the intent of a special exception.

Sincerely,

A handwritten signature in black ink, appearing to read "E. F. Teran", is positioned above a horizontal line.

Agent

Eric F. Teran
Architect, LEED AP BD+C
202-569-9620

EXHIBIT A

The following exhibits provide other character-defining architecture within the block that is also represented in the subject property.

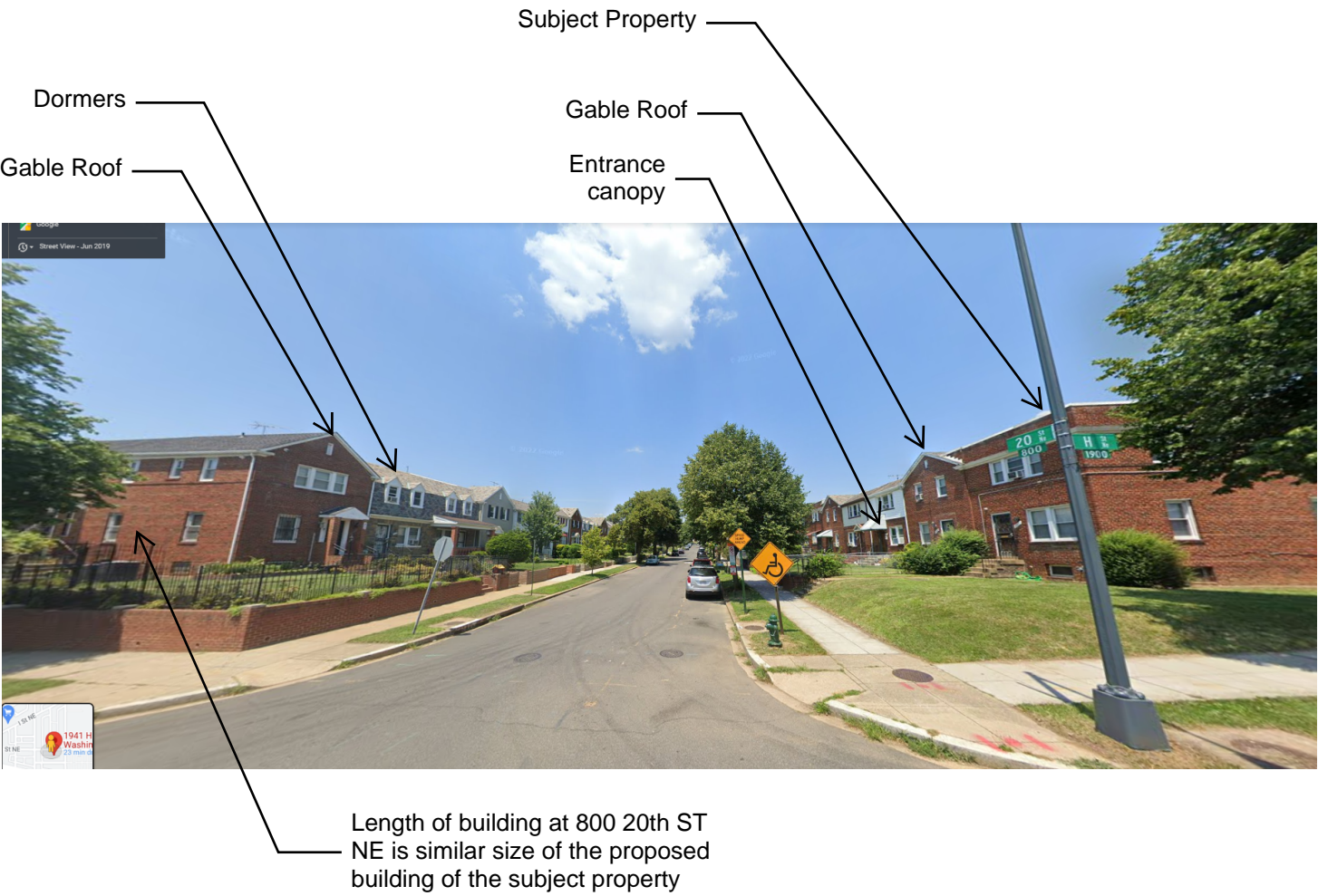


EXHIBIT B

1. The RF-4 zone requires a 20'-0" rear yard setback as shown with the red dashed lines.
2. Other than the three corner lots along H ST NE, all the lots have an area of 1,597 SF.
3. The light blue highlighted lot is the subject property.
4. The green highlighted areas show the lots at 60% lot occupancy while maintaining the front yard setback.
5. The blue highlighted areas show the lot occupancy increasing to 70%.
6. The lots that have no highlighted areas are omitted as they contain either a detached garage or accessory dwelling units and affect the lot occupancy calculation.

BZA will not grant a variance for over 70% lot occupancy as none of these lots are special or create hardships. Using 70% lot occupancy as the benchmark for maximum development each of these 66 lots will also require a special exception to extend beyond the 20'-0" rear yard setback and to extend past the adjacent neighbor more than the 10'-0" rule (approximately 23'-0" or 13'-0" past the 10'-0" rule). To extend 13'-0" past the 10'-0" rule will create large shadows and will compromise the enjoyment of the adjacent neighbors yard. **BZA case 20680 is requesting 6.52'.**

This exhibit clearly shows that **BZA case 20680 will not set a precedent** to allow future developments to extend to the rear yard property line by extending 10'-0" past the adjacent property, thereby creating a domino affect. BZA case 20680 is requesting **one special exception**. These possible scenarios will need to request two or possibly three special exceptions and will never be allowed to extend to the rear property line.



EXHIBIT C

The RF zone allows by right up to two units. However, the RF-4 zones allow up to four units by-right if the lot is large enough. Any more units require a special exception. Each unit requires a minimum of 900 SF of land. For example, if a lot is 2,000 SF only two units are allowed ($2 \times 900 \text{ SF} = 1,800 \text{ SF}$). If a lot is 3,000 SF only 3 units are allowed ($3 \times 900 \text{ SF} = 2,700 \text{ SF}$).

The following lots highlighted in red are the lots that are large enough to have three units by right:

Lot 19	3,011 SF (already developed when it was zoned RA-2)
Lot 20	3,011 SF (subject property highlighted in blue)
Lot 38	2,920 SF
Lot 65	3,011 SF (across the street from subject property)
Lot 91	3,100 SF (this lot has stopped construction due to violation and obtained a permit when it was in the RA-2 zone)
Lot 92	2,708 SF
Lot 109	2,819 SF
Lot 143	3,333 SF
Lot 151	3,100 SF

These nine lots are corner lots. The remaining 197 lots are only allowed to have two units unless requesting a special exception due to insufficient lot size or by combining lots (three lots will have to be combined to obtain 4 units as allowed by-right in the RF-4 zone).

If BZA case 20680 sets precedent it is for only 3.9% lots in this RF-4 zone.

